1952.

File No. O. Salsette Estates (L.R.E.A.) 52

Legal Dept.

A **BRANCH**

P 5(E)

Subject:— Opinions under the Salsette Estates (Land Revenue Exemption Abolition) Act 1951

File No. O. Salsette Estates (L.R.E.A.) /52

Gen. 194 e.

867-A

CONTENTS

Legal Department File No. O. Saheatte Estate (L.R.E.A.)
/52

Serial No.	R.I./O.No.	Subject	Pages.
		Opinions under the Saheatte Estates(Land Revenue Exemption Abolition) Act, 1951.	
1)	O.No. 238/20-12-52 M.(Revenue)	1) Whether the Act applies to the Kurla Village; 2) Whether the trustees of the Wadia Trust, Kurla are entitled to sell the land ; and 3) Whether Govt. can give sanction to the sale of the land to the society.	1-4

SMR 9-6-56
5 Copies.

19/6/17
19/6

D.S.(Civil Law).

It appears that the Tenants Co-operative Housing Society Ltd., has entered into an agree-ment with the Trustees of the Wadia Trust, Kurla, for the purchase of land admeasuring 2 lacs square yards at Chuna Bhatti, Kurla, on payment of certain price payable by instalments. The Society has paid the first instalment of Rs. 10,000/- and has taken possession of a part of the land. The trustees of the Kurla Estate have been advised that the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951, will not apply to the Estate Villages, but they are willing to complete the agreement of sale of the land entered into with the Society. They are, however, not prepared to give an indemnity to the Society in the matter. The Society has requested Government to accord sanction to the sale of the land on the ground that the agreement has been entered into prior to the passing of the Salsette Estates(Land Revenue Exemption Abolition) Act, 1951. The questions that appear to arise for consideration in this case are:-

(1) Whether the Salsette Estates(Land Revenue Exemption Abolition) Act, 1951, applies to the Kurla Village;

(2) Whether the Trustees of the Wadia Trust, Kurla, are entitled to sell the land; and

(3) Whether Government can give sanction to the sale of the land to the Society.

2. The Salsette Estates(Land Revenue Exemption Abolition) Act, 1951, extends to the villages specified in the Schedule in the Bombay Suburban and Thana Districts(See sub-section (2) of section 1).

"Schedule" means the Schedule appended to this Act(See clause(f) of sub-section (1) of section 2). Kurla is one of the villages specified in the Schedule. 'Estate' is defined in clause(b) of sub-section (1) of section 2 as meaning a village or a part thereof specified in the Schedule, and held under a kowl. "Estate-holder" as defined in clause (c) of sub-section (1) of section 2 means a holder of an estate and includes any person lawfully holding under or through him. It would, therefore be apparent that the Kurla Estate would be an estate to which the Salsette Estates(Land Revenue Exemption Abolition) Act, 1951, applies.

3 Under section 4 of the Salsette Estates(Land Revenue Exemption Abolition) Act, 1951,(a) all waste lands in any estate which under the terms of the kowl are not the property of the estate-holder, (b) all waste lands in any estate which under the terms of the kowl are the property of the estate holder but have not been appropriated or brought under cultivation before the 14th August 1951, and (c) all other kinds of property referred to in section 37 of the Code situate in an estate which is not the property of any individual or an aggregat of persons legally capable of holding property other than the estate-holder and except in so far as any rights of persons may be established in or over the same and except as may be otherwise provided by any law for the time being in force, together with all rights in or over the same or appertaining thereto, are and are hereby declared to be the property of the State and it shall be lawful to dispose of and sell the same by the authority in the manner and for the purposes prescribed in section 37 or 38 of the Code as the case may be. It is presumed that the land which has been purchased by the Society is waste or land which is not appropriated or brought under cultivation. Further, since no

sale deed has been passed in favour of the Society no interest has been created in favour of the Society over the land. Consequently, it appears that the land has vested in Government with effect from the 24th January 1952 on which date the Salsette Estates(Land Revenue Exemption Abolition) Act, 1951, has come into force. The trustees have; therefore, no right to sell this land and it is for this reason that the Trustees are not prepared to give an indemnity to the Society. The fact that the Society has entered into an agreement in respect of this land with the Trustees before the Act came into force would not make any difference to the legal position in as much as the agreement creates no interest in the land in favour of the Society. Since the land has already vested in Government the question of giving any sanction to the sale of the land by the Trustees to the Society would not arise. The Society would be well advised to ask the Trustees to refund the amount on the ground that in view of the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951, the Trustees would not be able to give a valid title to the land.

Id./ R.T.K.

Addl. Secy.

The reply to the Society should be that no question of Government issuing a "no-objection certificates" permitting the Society to complete the transaction arises. The contention of the Manager of the Kurla Estate, that the Salsette Estates(Land Revenue Exemption Abolition) Act, 195 does not apply to the Kurla Estate is not correct. It is however, for the Society to ascertain whethe

lands proposed to be purchased by it are included in the category of lands which vest in Government under the said Act.

R.D. should be asked to send a reply as above.

Id/- J.S.D. 19/12

Minister(Revenue).

SMR 12-6-66
4 Copies.